



Billing Code: 4210-67

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6001-N-07]

60-Day Notice of Proposed Information Collection:

Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors

**Federal Housing Administration (FHA) Healthcare Facility Documents:
Proposed Revisions and Updates of Information Collection**

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: Interested persons are invited to submit comments regarding this notice.

Communications must refer to the above docket number and title. There are two methods for submitting public comments:

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications will be available for public inspection and downloading at www.regulations.gov under the docket number for this notice.

FOR FURTHER INFORMATION CONTACT: John M. Hartung, Director, Policy, Risk Management and Lender Relations Division, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, U.S. Department of Housing and Urban Development, 1222 Spruce Street, Room 3.203, St. Louis, MO 63103–2836; telephone (314) 418–5238 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877– 8339.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors.

OMB Approval Number: 2502-0605.

Type of Request : Revision Request.

Form Number: HUD-9001-ORCF, HUD-9001a-ORCF, HUD-9001b-ORCF, HUD-9001c-ORCF, HUD-9001d-ORCF, HUD-9001e-ORCF, HUD-9001f-ORCF, HUD-9001g-ORCF, HUD-9001h-ORCF, HUD-9001i-ORCF, HUD-9002-ORCF, HUD-9003-ORCF, HUD-9004-ORCF, HUD-9005-ORCF, HUD-9005a-ORCF, HUD-9006-ORCF, HUD-9007-ORCF, HUD-9007a-ORCF, HUD-9009-ORCF, HUD-90010-ORCF, HUD-90011-ORCF, HUD-9444-ORCF, HUD-90012-ORCF, HUD-90013-ORCF, HUD-90014-ORCF, HUD-90015-ORCF, HUD-90016-ORCF, HUD-90017-ORCF, HUD-90018-ORCF, HUD-90021-ORCF, HUD-9442-ORCF, HUD-90023-ORCF, HUD-91123-ORCF, HUD-91124-ORCF, HUD-91125-ORCF, HUD-91127-ORCF, HUD-91129-ORCF, HUD-92328-ORCF, HUD-92403-ORCF, HUD-92408-ORCF, HUD-92415-ORCF, HUD-92437-ORCF, HUD-92441-ORCF, HUD-92441a-ORCF, HUD-92442-ORCF, HUD-92448-ORCF, HUD-92450-ORCF, HUD-92452-ORCF, HUD-92452A-ORCF, HUD-92455-ORCF, HUD-92456-ORCF, HUD-92479-ORCF, HUD-92485-ORCF, HUD-92554-ORCF, HUD-93305-ORCF, HUD-95379-ORCF, HUD-2-ORCF, HUD-935.2D-ORCF, HUD-941-ORCF, HUD-9445-ORCF, HUD-9839-ORCF, HUD-90022-ORCF, HUD-90024-ORCF, HUD-91116-ORCF, HUD-91126-ORCF, HUD-91130-ORCF, HUD-92000-ORCF, HUD-92264a-ORCF, HUD-92434-ORCF, HUD-90020-ORCF, HUD-92322-ORCF, HUD-92211-ORCF, HUD-92331-ORCF, HUD-92333-ORCF, HUD-92335-ORCF, HUD-92337-ORCF, HUD-92339-ORCF, HUD-92340-ORCF,

HUD-92341-ORCF, HUD-92342-ORCF, HUD-2205A-ORCF, HUD-91110-ORCF, HUD-91111-ORCF, HUD-91112-ORCF, HUD-91118-ORCF, HUD-91710-ORCF, HUD-92023-ORCF, HUD-92070-ORCF, HUD-92071-ORCF, HUD-92223-ORCF, HUD-92323-ORCF, HUD-92330-ORCF, HUD-92330A-ORCF, HUD-92420-ORCF, HUD-92435-ORCF, HUD-92466-ORCF, HUD-92466A-ORCF, HUD-92468-ORCF, HUD-94000-ORCF, HUD-94000-ORCF-ADD, HUD-94000B-ORCF, HUD-94001-ORCF, HUD-94001-ORCF-RI, HUD-9443-ORCF, HUD-91071-ORCF, HUD-91128-ORCF, HUD-92412-ORCF, HUD-92414-ORCF, HUD-92464-ORCF, HUD-92476-ORCF, HUD-92476B-ORCF, HUD-92476C-ORCF, HUD-91117-ORCF, HUD-91725-ORCF, HUD-91725-INST-ORCF, HUD-91725-CERT-ORCF, HUD-92325-ORCF, HUD-1044-D-ORCF, HUD-2537-ORCF, HUD-2747-ORCF, HUD-9250-ORCF, HUD-9807-ORCF, HUD-90019-ORCF, HUD-90029-ORCF, HUD-90030-ORCF, HUD-90031-ORCF, HUD-90032-ORCF, HUD-90033-ORCF, HUD-92080-ORCF, HUD-92117-ORCF, HUD-92228-ORCF, HUD-92266-ORCF, HUD-92266A-ORCF, HUD-92266B-ORCF, HUD-92417-ORCF, HUD-93332-ORCF, HUD-93333-ORCF, HUD-93334-ORCF, HUD-93335-ORCF, HUD-93479-ORCF, HUD-93480-ORCF, HUD-93481-ORCF, HUD-93486-ORCF, HUD-91116A-ORCF, HUD-92211A-ORCF, HUD-92323A-ORCF, HUD-92333A-ORCF, HUD-92338-ORCF, HUD-92340A-ORCF, HUD-92420A-ORCF, HUD-92434A-ORCF, HUD-92440-ORCF, HUD-92467-ORCF, HUD-92467A-ORCF, HUD-94000A-ORCF, HUD-94001A-ORCF,

Description of the need for the information and proposed use:

The issuance of this notice is modeled on the public review and input process that HUD utilized in the establishment of the healthcare facility documents for Section 232 of the National Housing Act (Section 232) program. On March 14, 2013, at 78 FR 16279,

after solicitation of comment, HUD published in the **Federal Register** a notice that announced the approval of the healthcare facility documents under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501– 3520) (PRA) and an assignment of a control number, 2502–0605, by the Office of Management and Budget (OMB). The final collection received a 12-month approval. Following OMB approval, on February 17, 2014, at 79 FR 11114, HUD solicited additional comment before seeking a 36-month approval. After the appropriate comment and response periods, the healthcare facility documents were approved for a 36-month renewal, as of June 30, 2014, with an expiration of June 2017.

As required by 5 CFR 1320.8(d)(1) and consistent with HUD’s process utilized when establishing the healthcare facility documents, HUD is soliciting comments from members of the public and interested parties on the renewal of the revised healthcare facility documents. The healthcare facility documents include 156 documents going through the PRA process and available for review at: www.hud.gov/232comments. All of the documents that are the subject of this notice are also listed above. All documents are presented online in redline/strikeout format, so that the reviewer can see the changes proposed to be made to the documents.

A majority of the documents are being renewed, and some include edits that were made to address changes in policies in recent years or to address inconsistencies across documents and other Program Obligations (i.e. the Section 232 Handbook 4232.1). The collection also includes new additions to fold in tools previously only found in the Multifamily Housing document collections, as well as to create consistent formats for submitting information to ORCF that was not previously captured in the 2014 document

collection, but that is required by ORCF. A few obsolete documents are being removed as well. These include resources that are no longer relevant to ORCF or duplicate information already found in other documents. An example would include documents specifically related to "Blended Rate" transactions. ORCF updated its policies after determining that, consistent with FHA Multifamily Housing's approach, an otherwise eligible transaction could come within either the Section 223(f) criteria or the Section 232 Substantial Rehabilitation criteria and that, therefore, a blending of the loan-to-value criteria of those two programs is not necessary.

A brief summary of the more significant changes per documentation category is provided below.

- **Lender Narratives** – The edits consist primarily of changes to remove program guidance from the narratives and to incorporate updated underwriting standards specific to, for example, special use facilities.
- **Consolidated Certifications** – The changes consist of streamlining the form and revising language to incorporate the changed policy in the new previous participation regulation with new definitions such as Controlling Participant.
- **Construction documents** - Several documents are proposed that will replace the current versions of the Multifamily forms still in use, such as a new Borrower Certification for Early Start/Early Commencement of Construction projects.
- **Underwriting documents** – A new form was added - New Fair Housing Marketing Plan document – which provides the Affirmative Fair Housing Marketing Plan Requirements. ORCF removed one obsolete document (Agreement for Payment of Real Property Taxes) that is more specific to multifamily housing, and not relevant to healthcare facilities, as

well as the Certificate of Need for Health Facilities and Schedule of Facilities Owned, Operated or Managed, which both contained duplicative information provided in other documents. The new Affirmative Fair Housing Marketing Plan was vetted with FHEO; other HUD programs had unique AFHMPs for their programs, and this new form is meant to accomplish the same for healthcare facilities. Appraisal information will also be collected via a new spreadsheet that is similar to a collection method used by the multifamily housing “wheelbarrow”.

- **Accounts Receivable (AR) documents** – Edits include changes made to the Intercreditor Agreement form to address an ongoing issue of how operators should disclose any cross-defaults between the AR loan and the HUD loan.
- **Master Lease documents** – Changes include adding two new forms: Termination and Release of Cross-Default Guaranty of Subtenants – Proposed and Amendment to HUD Master Lease (Partial Termination and Release) – Proposed to reflect the 232 Handbook policy related to a release of a project from a master lease.
- **Closing documents** – Edits were made to the Surplus Cash Note and Subordination Agreement – (Financing) to restrict distributions when there is secondary financing.
- **Security Instrument/Mortgage Deed of Trust** – Edits were made to the exculpation provision in the Security Instrument/Mortgage Deed of Trust to reflect Multifamily’s form and reduces the need to amend the document when the Regulatory Agreement - Borrower paragraph 38 is changed. New residential care facilities versions of Certificate of Actual Cost as well as a Rider to Security Instrument – LIHTC – were incorporated into the collection to replace Multifamily versions still in use which did not reflect ORCF policy.

- **Regulatory Agreement for Fire Safety** - A new Regulatory Agreement for Fire Safety projects and a Management Agreement Addendum, as well as formalization of a Lender Certification for Insurance Coverage, to incorporate current samples already in place were added to the documentation collection.
- **Escrow documents** – New proposed escrow forms for long-term debt service reserves and Off-Site Facilities were also added.
- **Asset Management documents** – Change of participant application documents were revised to streamline the documents needed for a change in title of mortgaged property, change of operator or management agent, or complete change of all the parties. Documents still being used in the Multifamily format were incorporated into this collection, to specifically address ORCF policy. New Lender Narratives were also added for the addition of Accounts Receivable, for Requests to Release or Modify Original Loan Collateral and Loan Modifications (along with a corresponding Certification). New forms were also added to incorporate existing samples in use for 232 Healthcare Portal Access, and notification to ORCF, by the Servicer and Operator of developing concerns within a project.
- **Supplemental Loan documents** – All 241a loan documents that have been in use as samples are now made a part of the documentation collection for OMB approval.

Note: HUD makes no changes to the Legal Opinion and Certification Documents.

Respondents (i.e. affected public): Borrowers/sponsors, general contractors, lenders, and others involved in residential healthcare facility projects.

Estimated Number of Respondents: 5,468.

Estimated Number of Responses: 24,459.

Frequency of Response: 708.

Average Hours per Response: 5.21.

Total Estimated Burden: 47,174.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Date: May 11, 2017

Genger Charles,
General Deputy Assistant Secretary for Housing.

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[FR Doc. 2017-10229 Filed: 5/18/2017 8:45 am; Publication Date: 5/19/2017]